

Queensland



Subordinate Legislation 2002 No. 255

Drugs Misuse Act 1986

**DRUGS MISUSE AMENDMENT REGULATION
(No. 1) 2002**

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1 Short title

This regulation may be cited as the *Drugs Misuse Amendment Regulation (No. 1) 2002*.

2 Regulation amended

This regulation amends the *Drugs Misuse Regulation 1987*.

3 Renumbering of s 4 (Dictionary)

Section 4—

renumber as section 2.

4 Omission of pt 2 (Search warrant notices and record)

Part 2—

omit.

5 Renumbering of pts 3, 4 and 6 and ss 9–15

(1) Parts 3, 4 and 6—

renumber as parts 2, 3 and 5.

(2) Sections 9 to 15—

renumber as sections 3 to 9.

6 Replacement of existing pt 5

Part 5—

omit, insert—

‘PART 4—COMMERCIAL PRODUCTION OF INDUSTRIAL CANNABIS

‘Division 1—Preliminary

‘10 Operation of pt 4 and schs 7 and 8

‘(1) Divisions 3 to 7 state activities stated persons are authorised to perform for the purposes of part 5B of the Act.

‘(2) Schedule 7 states conditions applying to particular persons who perform activities stated in divisions 4, 5, 6 and 7.

‘(3) If a word used in this part, schedule 7 or schedule 8 is not defined in the dictionary but is defined for part 5B of the Act, the word has the same meaning as in that part, unless a contrary intention appears.¹

‘Division 2—Certified cannabis seed

‘11 Certifying cannabis seed

‘(1) The way seed originating in Queensland is to be certified for the definition “**certified cannabis seed**” in section 46 of the Act is stated in the Industrial Cannabis THC Seed Certification Code of Practice approved by the chief executive by gazette notice.²

‘(2) The way cannabis seed originating in another State or a foreign country (“**imported seed**”) is certified for the definition “**certified cannabis seed**” in section 46 of the Act is stated in subsection (3).

‘(3) The seed must be in a package that—

(a) has a document attached to it certifying that the seed—

(i) has been certified in accordance with a recognised quality assurance program; and

1 *Drugs Misuse Act 1986*, part 5B (Commercial production of industrial cannabis) and section 46 (Definitions for pt 5B).

2 The code is a departmental document and is published by the department. A copy of the code may be obtained or inspected without charge from the department’s head office at 80 Ann Street, Brisbane during normal business hours. The department’s internet site is at www.dpi.qld.gov.au and the code is also available there.

- (ii) if grown, will produce cannabis plants with a THC concentration in their leaves and flowering heads of not more than 0.5%; and
- (b) describes the contents of the package as seed that, if grown, will produce cannabis plants with a THC concentration in their leaves and flowering heads of not more than 0.5%.

‘Division 3—Carriers

‘12 Application of div 3

‘This division applies to a carrier only if the carrier is engaged or employed by any of the following to transport consigned cannabis—

- (a) a category 1 or category 2 researcher;
- (b) a grower;
- (c) a DPI researcher;
- (d) an inspector;
- (e) a seed supplier.

‘13 Supply

‘(1) The carrier is authorised to transport consigned cannabis and give it to the person to whom it is consigned.

‘(2) The authorisation—

- (a) is for the time necessary for the carrier to transport the consigned cannabis and give it to the person to whom it is consigned; and
- (b) has effect only while the carrier is acting in accordance with the terms of the carrier’s engagement or employment.

‘14 Possession

‘(1) The carrier is authorised to possess consigned cannabis for the time necessary for the carrier to transport it to the person to whom it is consigned and give it to the person.

‘(2) The authorisation has effect only while the carrier is acting in accordance with the terms of the carrier’s engagement or employment.

Division 4—DPI researchers**‘15 Supply**

‘A DPI researcher is authorised—

- (a) to supply class A research cannabis plants and seed to another DPI researcher or a category 1 researcher; and
- (b) to supply class B research cannabis plants and seed to another DPI researcher or a category 1 or category 2 researcher; and
- (c) to supply class A and class B research cannabis seed to a grower for use, under the DPI researcher’s supervision, as part of a field trial the DPI researcher is conducting on land owned or leased by the grower; and
- (d) to supply industrial cannabis seed to any of the following—
 - (i) a grower;
 - (ii) a category 1 or category 2 researcher;
 - (iii) another DPI researcher;
 - (iv) the owner or operator of a facility at which industrial cannabis seed may be denatured;
 - (v) the owner or operator of a facility where processed cannabis is, or is to be, used for manufacturing a manufactured product for sale by wholesale or retail; and
- (e) to supply class A or class B research cannabis seed or industrial cannabis seed to a person in another State who is authorised under the law of that State to possess cannabis seed that, if grown, will produce plants with a THC concentration in their leaves and flowering heads that the person in the other State may possess; and
- (f) to supply class A or class B research cannabis plants, industrial cannabis plants or processed cannabis to an analyst; and
- (g) to supply processed cannabis to the owner or operator of a facility where processed cannabis is used for manufacturing a manufactured product for sale by wholesale or retail.

‘16 Production

‘A DPI researcher is authorised to produce, for use in plant breeding programs for developing new commercial strains of industrial cannabis—

- (a) industrial cannabis plants and seed; and
- (b) class A and class B research cannabis plants and seed.

‘17 Possession

‘A DPI researcher is authorised to possess any of the following for a purpose mentioned in section 15 or 16—

- (a) industrial cannabis plants and seed;
- (b) class A and class B research cannabis plants and seed;
- (c) processed cannabis.

‘Division 5—Inspectors**‘18 Supply**

‘An inspector is authorised —

- (a) to supply industrial cannabis plants, class A or class B research cannabis plants or processed cannabis to an analyst to analyse the THC concentration in any of them; and
- (b) if the inspector is given industrial cannabis plants or seed or class A or class B research cannabis plants or seed for delivery to a particular person who is lawfully entitled to possess the plants or seed—to supply the plants or seed to the person.

‘19 Possession

‘An inspector is authorised—

- (a) to possess industrial cannabis plants, class A or class B research cannabis plants or processed cannabis given to the inspector for delivery to an analyst to analyse the THC concentration in the plants or processed cannabis; and
- (b) to possess industrial cannabis plants or seed or class A or class B research cannabis plants or seed given to the inspector for

delivery to a person lawfully entitled to possess the plants or seed.

‘Division 6—Seed suppliers

‘20 Supply

‘A seed supplier is authorised to supply industrial cannabis seed to any of the following—

- (a) a category 1 or category 2 researcher;
- (b) a grower;
- (c) a DPI researcher;
- (d) a person in another State who is authorised under the law of that State to possess cannabis seed that, if grown, will produce cannabis plants with a THC concentration in their leaves and flowering heads the person in the other State may possess;
- (e) if the seed supplier holds a licence under the *Customs Act 1901* (Cwlth) authorising the seed supplier to export cannabis—a person in a foreign country who is authorised under the law of the country to possess the seed.

‘21 Possession

‘A seed supplier is authorised to possess industrial cannabis seed for the purpose of supplying it to a person mentioned in section 20.

‘Division 7—Other persons

‘22 Denaturer

‘(1) The owner or operator of a facility where industrial cannabis seed may be denatured under an agreement or arrangement with a licensee or another person authorised under this part to produce industrial cannabis seed (“**denaturer**”), is authorised to possess industrial cannabis seed supplied to the owner or operator, but only for the purpose of denaturing the seed.

‘(2) A denaturer is authorised to supply denatured seed to a person who is authorised to possess processed cannabis.

‘23 Manufacturer

‘The owner or operator of a facility where processed cannabis is used for manufacturing a manufactured product for sale by wholesale or retail is authorised to possess processed cannabis for using it for manufacturing a manufactured product.

‘24 Analyst

‘(1) An analyst is authorised to possess—

- (a) standard THC material to calibrate an analytical instrument used for analysing a substance to determine its THC concentration; and
- (b) if an authorised person engages or employs the analyst to analyse a substance to determine its THC concentration—the substance for the purpose of the analysis.

‘(2) In this section—

“**authorised person**” means any of the following—

- (a) a category 1 or category 2 researcher;
- (b) a grower;
- (c) a DPI researcher;
- (d) an inspector.

“**substance**” means a substance that an authorised person reasonably believes to be any of the following—

- (a) industrial cannabis plants;
- (b) class A or class B research cannabis plants;
- (c) processed cannabis.

‘25 Family members

‘(1) A person who is a member of the immediate family of a licensee is authorised to produce, possess or supply a substance if—

- (a) the licensee is authorised to produce, possess or supply the substance under the Act; and
- (b) the person's production, possession or supply of the substance is necessary for, or incidental to the licensee's production, possession or supply of the substance.

'(2) In this section —

“substance” means any of the following—

- (a) class A research cannabis plants;
- (b) class A research cannabis seed;
- (c) class B research cannabis plants;
- (d) class B research cannabis seed;
- (e) industrial cannabis plants;
- (f) industrial cannabis seed;
- (g) processed cannabis.

'26 Employees of authorised persons

'(1) An employee of an authorised person is authorised to produce, possess, supply or transport a substance if—

- (a) under the Act, the authorised person is authorised to produce, possess, supply or transport the substance; and
- (b) the employee's production, possession, supply or transportation of the substance is necessary for, or incidental to, performing the employee's employment or engagement.

'(2) In this section—

“authorised person” means any of the following—

- (a) a licensee;
- (b) a carrier;
- (c) a DPI researcher;
- (d) an inspector;
- (e) a seed supplier;
- (f) a denaturer;

- (g) a manufacturer;
- (h) an analyst.

“employee” includes agent.

“substance” means any of the following—

- (a) class A research cannabis plant;
- (b) class A research cannabis seed;
- (c) class B research cannabis plant;
- (d) class B research cannabis seed;
- (e) industrial cannabis plant;
- (f) industrial cannabis seed;
- (g) processed cannabis.

Division 8—Other provisions

‘27 Recognition as seed supplier

‘(1) A person may apply in writing to the chief executive for recognition as a seed supplier.

‘(2) The chief executive must recognise the person as a seed supplier if the chief executive is satisfied the person—

- (a) for trade or commerce, sells or otherwise provides seeds to someone else; and
- (b) for selling or providing the seed, has a current recognised quality assurance program that conforms to an industry standard or code of practice; and
- (c) is a member of the Queensland Seed Industry Association or a similar organisation in another State.

‘(3) The chief executive must give a person recognised as a seed supplier written notice of the recognition.

‘(4) The recognition notice must state—

- (a) the person’s recognition number as a seed supplier; and

(b) the date the recognition ends, which must not be longer than 3 years after the date of the notice.

‘(5) The recognition is not transferable.

‘28 Licence fees

‘(1) The fee payable on application for a licence under the Act, part 5B is \$300.

‘(2) The fee payable on application for the renewal of a licence is \$120.

‘29 Licence conditions, Act, s 64

‘(1) The conditions in schedule 8 are prescribed for section 64(3)³ of the Act.

‘(2) Unless otherwise expressly stated, the conditions apply to all licensees.’.

7 Amendment of schs 1–6

(1) Schedules 1, 2, 2A, 3, 4, 5 and 6, section reference, ‘59’—

omit, insert—

‘134’.

(2) Schedule 3, section reference, ‘52A’—

omit, insert—

‘125’.

(3) Schedule 5, section reference, ‘51’—

omit, insert—

‘124’.

8 Replacement of schs 7–9

Schedules 7 to 9—

omit, insert—

3 Section 64 (Term and conditions)

‘SCHEDULE 7

‘CONDITIONS FOR PARTICULAR PERSONS AUTHORISED UNDER PART 4

section 10(2)

‘1 Denaturer

A denaturer must—

- (a) keep industrial cannabis seed that has not been denatured in a securely locked place, other than when removing it to enable it to be denatured; and
- (b) keep records of—
 - (i) the source and quantity of all industrial cannabis seed received for denaturing; and
 - (ii) when and by whom the industrial cannabis seed was delivered to the denaturer; and
- (c) must pay the chief executive’s reasonable costs of monitoring the denaturer’s activities to the extent to which they relate to the denaturing of industrial cannabis seed and the supply of processed cannabis to a manufacturer.

2 DPI researcher

A DPI researcher must—

- (a) keep class A research cannabis plants the researcher is growing securely locked in a glasshouse; and
- (b) grow class B research cannabis plants in an area that is fenced to delineate the area under production; and
- (c) if the chief executive requires the researcher to erect signs indicating the presence of class B research cannabis at a fenced area, ensure the signs are erected as required by the chief executive; and

- (d) keep industrial cannabis seed and class A and class B research cannabis seed in the researcher's possession or under the researcher's control locked in a secure place when not otherwise required—
 - (i) for use for planting; or
 - (ii) to be supplied to another person; and
- (e) keep a register that includes the following information—
 - (i) the varieties or strains of cannabis plants and cannabis seed under the researcher's control;
 - (ii) the source, quantity and delivery details for cannabis seed and plant varieties the researcher receives;
 - (iii) how, when and from whom the researcher received cannabis plants and seed delivered to the researcher;
 - (iv) if a carrier delivered the cannabis plants or seed to the researcher, the name of the person who delivered the plants or seed;
 - (v) if a researcher engages a carrier to deliver cannabis plants or seed to someone else—
 - (A) the name of the person to whom the plants or seed were given for delivery; and
 - (B) the name of the person to whom it is intended the plants or seed be supplied by the researcher.

3 Inspector

An inspector who possesses industrial cannabis plants or seed or class A or class B research cannabis plants or seed for supplying them to someone else under part 4 must keep the plants or seed in a secure place until the inspector supplies them to the person.

4 Seed supplier

A seed supplier must—

- (a) keep industrial cannabis seed in the supplier's possession or under the supplier's control locked in a secure place when not

otherwise required for use for lawfully supplying the seed to a person mentioned in section 20; and

- (b) keep records of the following information—
 - (i) the source and quantity of all industrial cannabis seed supplied to the supplier;
 - (ii) how, when and by whom industrial cannabis seed was delivered to the supplier;
 - (iii) if industrial cannabis seed is delivered to the supplier by a carrier—the name of the person who actually delivered the seed;
 - (iv) if the supplier supplies industrial cannabis seed to a carrier for delivery to a person—
 - (A) the name of the person to whom the seed was given for delivery; and
 - (B) the name of the person to whom it is intended the seed be supplied by the supplier;
 - (v) the name of each person to whom the supplier supplies industrial cannabis seed; and
- (c) ensure all industrial cannabis seed received by the seed supplier is labelled to indicate—
 - (i) if the seed is cannabis seed harvested from an industrial cannabis plant—that fact; or
 - (ii) if the seed is certified cannabis seed—that fact; and
- (d) ensure that each package of certified cannabis seed supplied by the seed supplier has a label on it, or attached to it, that describes the contents of the package as certified cannabis seed; and
- (e) pack all industrial cannabis seed to be delivered to someone else by a carrier in a way that ensures, as far as reasonably practicable, seed can not be lost if the package is damaged.

5 Analyst

(1) This section applies if an analyst is engaged or employed to analyse a substance to determine its THC concentration.

(2) The analyst must analyse the substance in a laboratory whose functions and operations are accredited by NATA for competence to undertake drug analysis.

(3) The analyst must keep standard THC material in a securely locked place other than when the analyst is using the material in analysing the substance to determine its THC concentration.

(4) The analyst must keep the substance in a securely locked place other than when the analyst is analysing the substance.

(5) In this section—

“**NATA**” means the National Association of Testing Authorities, Australia
ABN 59 004 379 748.

“**substance**” means a substance the analyst reasonably believes to be any of the following—

- (a) industrial cannabis plants;
- (b) class A or class B research cannabis plants;
- (c) processed cannabis.

‘SCHEDULE 8

‘LICENCE CONDITIONS

section 29(1)

- 1.** A licensee who is authorised to produce class A research cannabis must—
 - (a) grow the cannabis in a glasshouse that is capable of being securely locked; and
 - (b) keep the glasshouse securely locked other than when the licensee or a person authorised by the licensee is performing functions directly associated with growing cannabis in the glasshouse.
- 2.** A licensee who is authorised to produce class B research cannabis must—

- (a) grow the cannabis in an area that is fenced to delineate the area under production; and
 - (b) if the chief executive requires the licensee to erect signs indicating the presence of class B research cannabis at a fenced area, ensure the signs are erected as required by the chief executive.
3. A licensee must keep cannabis seed in the licensee's possession in a securely locked place, other than when the licensee uses the seed for a purpose that is authorised under the licensee's licence.
4. A licensee must keep a register of the following—
 - (a) the strains or varieties of cannabis seed in the licensee's possession;
 - (b) the strains or varieties of cannabis plants the licensee is growing.
5. A licensee must keep records of the following information—
 - (a) the source and quantity of all cannabis plants and seed supplied to the licensee;
 - (b) how, when and by whom plants or seed were delivered to the licensee;
 - (c) if cannabis plants or seed are delivered to the licensee by a carrier—the name of the person who actually delivered the plants or seed;
 - (d) if cannabis plants or seed are supplied to a carrier for delivery to a person—
 - (i) the name of the person to whom the plants or seed were given for delivery; and
 - (ii) the name of the person to whom it is intended the plants or seed be supplied by the carrier.
6. As soon as reasonably practicable after a licensee receives a package containing cannabis plants or seed that appears to have been tampered with, the licensee must inform an inspector or a police officer that the package appears to have been tampered with.
7. A licensee must pay the chief executive's reasonable costs of monitoring activities performed under the licence, including any costs of an analyst conducting a laboratory analysis necessary to determine the concentration of THC in the leaves and flowering heads of cannabis plants in the licensee's possession.

8. A category 2 researcher must allow an inspector to destroy, or supervise the destruction of, cannabis plants in the possession of the licensee that have been found, by an analyst conducting a laboratory analysis of a random sample of the leaves and flowering heads of the plants, to have a concentration of THC in their leaves and flowering heads of 3% or more.
9. A grower must allow an inspector to destroy, or supervise the destruction of, cannabis plants in the possession of the licensee that have been found, by an analyst conducting a laboratory analysis of a random sample of the leaves and flowering heads of the plants, to have a THC concentration in their leaves and flowering heads of more than 1%.
10. A licensee who proposes to supply industrial cannabis seed for sale by wholesale or retail must ensure—
 - (a) if the seed is cannabis seed harvested from an industrial cannabis plant—the package containing the seed has a label on it or attached to it that describes the contents of the package as cannabis seed harvested from an industrial cannabis plant; or
 - (b) if the seed is certified cannabis seed—the package containing the seed has a label on it, or attached to it, that describes the contents of the package as certified cannabis seed.
11. A category 2 researcher must ensure, as far as practicable, that cannabis seed supplied to the researcher by a person in another State or a foreign country is certified as seed that, if grown, will produce cannabis plants with a THC concentration in their leaves and flowering heads of less than 3%.
12. A grower must ensure, as far as practicable, that cannabis seed supplied to the grower by a person in another State or a foreign country is certified as seed that, if grown, will produce cannabis plants with a THC concentration in their leaves and flowering heads of not more than 0.5%.

‘SCHEDULE 9**‘DICTIONARY**

section 2

“analyst” means a person who holds an approval under the *Health (Drugs and Poisons) Regulation 1996* to obtain, possess and use standard THC material to calibrate an analytical instrument used for analysing a substance to determine its THC concentration.

“carrier” means a person who carries on a business of transporting a thing for delivery to the person to whom it is consigned, whether in Queensland or elsewhere, and whether the thing is transported by air, rail, road or sea.

“consigned” includes addressed.

“consigned cannabis” means any of the following—

- (a) industrial cannabis plants;
- (b) industrial cannabis seed;
- (c) class A research cannabis;
- (d) class B research cannabis;
- (e) processed cannabis.

“DPI researcher” means a public service officer—

- (a) who is employed in the department within which the *Agricultural Standards Act 1994* is administered; and
- (b) whose duties include plant breeding; and
- (c) who is authorised by the chief executive in writing to perform activities stated in part 4, division 4.

“seed supplier” means a person recognised as a seed supplier under section 27.

“standard THC material” means THC of a known purity.

“supply”—

- (a) for part 3, see section 43A⁴ of the Act; or
- (b) for part 4, does not include administer.’.

ENDNOTES

1. Made by the Governor in Council on 26 September 2002.
2. Notified in the gazette on 27 September 2002.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Primary Industries.

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4 Section 43A (Definitions)